

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

**THE LUTHERAN CHURCH – MISSOURI
SYNOD, a Missouri nonprofit corporation
Plaintiff,**

V.

**DONALD CHRISTIAN, CHRISTOPHER
BANNWOLF, CONCORDIA
UNIVERSITY TEXAS, INC., & JOHN
DOES 1-12**
Defendants

Case No. 1:23-cv-1042-DE
[Consolidated with 1:24-cv-00176-DE]

PROTECTIVE ORDER

Before the Court is Defendant Concordia University Texas, Inc. (CTX's) Motion for Protective Order. Having considered the motion and Plaintiff Lutheran Church – Missouri Synod's (LCMS) response, the Court concludes that the motion should be granted in all respects.

IT IS THEREFORE ORDERED that disclosure or discovery of, or inquiry into, the internal written or verbal communications between current or former Regents and CTX's President and Provost, and/or other Regents, or documents obtained by current or former Regents, during the time they were active members on CTX's Board of Regents invades First Amendment, attorney-client, and/or work-product privileges and is prohibited regarding the following topics:

- (a) Amendments to CTX's governing documents including the passing or affirming the passage of the amendments, including drafts, the intent, or the anticipated effect of the amendments;
- (b) matters of governance or religious polity of CTX;
- (c) Board of Regents meetings in which matters of CTX's governance and/or religious polity were discussed, including the November 8, 2022 and April 4, 2023 Board of Regents

meetings;

- (d) how individual Regents voted on the amendments to the governing documents and later affirmation, as well as any documents reflecting the views of individual members on the amendments and affirmations;
- (e) the seating of Regents on the Board of Regents;
- (f) communications with CTX donors containing identifying information of donors; (communications where the identity of the donors has been redacted does not violate this order);
- (g) the thoughts and opinions of individual Regents and CTX's President or Provost regarding resolutions passed by the Lutheran Church – Missouri Synod, an association of Lutheran Congregations (“Synod”) in convention;
- (h) alternative relationship structures between CTX, Synod, and LCMS;
- (i) the withdrawal of CTX from Concordia Plan Services or other LCMS sponsored insurance funds and retirement plans;
- (j) the drafting and/or preparation of the Demonstration of Lutheran Identity Statement;
- (k) succession plans for CTX's president, CTX's presidential search process, qualifications of a future president, and the current and future President's salary;
- (l) CTX's finances, including the acquisition of debt; and
- (m) any documents or communications containing legal advice from CTX's attorneys or work-product materials prepared in anticipation of this litigation.

IT IS FURTHER ORDERED that documents, communications, or other materials responsive to third-party subpoenas issued by LCMS to former CTX Regents must first be provided to CTX for review. CTX may withhold and prohibit production of any documents

containing 1st Amendment, attorney-client, and/or work-product privileged information. CTX must produce a privilege log of any withheld documents. All non-withheld documents must be promptly produced to LCMS.

IT IS FURTHER ORDERED that LCMS is prohibited from engaging in *ex parte* communications with any former CTX Regent regarding topics (a)-(m) above.

Signed this ____ day of _____, 2024.

The Honorable David Ezra
U.S. District Judge